

IN THE CIRCUIT COURT OF POLK COUNTY, TENNESSEE  
DUCKTOWN LAW COURT

Judy Lance, d/b/a J&B Discount,  
Plaintiff

v.

Owners Insurance Co.  
Defendant

Peoples Bank of East Tennessee  
Intervening Plaintiff

v.

Owners Insurance Co.  
Defendant

Case No. 11-CV-150

Judge Sharp

Jury Demand

*[Signature]*  
**FILED**  
FEB 14 2013

Clerk, U. S. District Court  
Eastern District of Tennessee  
At Chattanooga

TO: Owners Insurance Co., c/o Gerald Tidwell Atty 817 Broad street Suite 202, Chattanooga TN 37364  
Defendant Address

You are hereby summoned to answer and make defense to a bill of complaint, which has been filed in the Circuit Court of Polk County, Tennessee in the above styled case. Your defense to this complaint must be filed in the office of the Circuit Court Clerk of Polk County, Tennessee on or before thirty (30) days after service of this summons upon you. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

WITNESSED and Issued this 16 day of January, 20 13

CIRCUIT COURT CLERK

BY: *[Signature]*

Deputy Circuit Court Clerk

Attorneys for Plaintiff: Douglas N. Blackwell II, BPR 19298  
Blackwell Law Offices, PLLC  
623 Broad St., N.W. PO Box 1455  
Cleveland, TN 37364-1455  
(423) 472-3000 / (423) 472-4533 (fax)

Plaintiff's Address: c/o Douglas N. Blackwell II

**COST BOND**

I hereby acknowledge and bind myself for the prosecution of this action and payment of all costs, exclusive of discretionary costs, in this court which may at any time be adjudged against the plaintiff in the event said plaintiff shall not pay the same.

Witness my hand this 15 day of JAN, 20 13

Blackwell Law Offices, PLLC

By: *[Signature]*

Douglas N. Blackwell II, Surety  
PO Box 1455, Cleveland, TN 37364  
Address

**EXHIBIT**

STATE OF TENNESSEE,  
COUNTY OF POLK

I, Clerk of the Circuit Court, in and for the State and County aforesaid, hereby certify that the within and foregoing is a true and correct copy of the original writ of summons issued in this case.

Circuit Court Clerk

By

Connie Clark D.C.

OFFICERS RETURN

I certify that I served this summons together with the complaint as follows:

On 1-16, 2013, I delivered a copy of the summons and complaint to the defendant, Owners  
Insurance Co. via US mail to Atty Gerald Tidwell as previously  
by recd

I failed to serve this summons within 30 days after its issuance because: \_\_\_\_\_

~~Sheriff~~

D n Blackwell  
Deputy Sheriff

CLERK'S RETURN

I hereby acknowledge and accept service of the within summons and receive copy of same, this \_\_\_\_\_ day of \_\_\_\_\_  
2013.

Defendant

CIRCUIT COURT CLERK

By \_\_\_\_\_ D.C.

NOTICE TO DEFENDANT(S)

Tennessee law provides a four thousand dollar (\$4,000.00) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trucks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

**IN THE CIRCUIT COURT OF POLK COUNTY, TENNESSEE  
DUCKTOWN LAW COURT**

**Judy Lance, d/b/a J&B Discount,  
Plaintiff**

**v.**

**Owners Insurance Co.  
Defendant**

**Case No. 11-CV-150**

**Judge Sharp**

**Peoples Bank of East Tennessee  
Intervening Plaintiff**

**v.**

**Owners Insurance Co.  
Defendant**

**Jury Demand**

**Complaint**

Peoples Bank of East Tennessee ("PBET"), by and through counsel, hereby files this Intervening Complaint, Pursuant to an Agreed Order entered January 4, 2013. As grounds, PBET states:

1. Plaintiff, Peoples Bank of East Tennessee ("PBET") is a financial institution authorized to do business in the State of Tennessee. PBET may be contacted through their counsel, Douglas N. Blackwell II with Blackwell Law Offices, PLLC, PO Box 1455, Cleveland, TN 37364.

2. Owners Insurance Co. ("Owners") is a foreign insurance carrier with its principle place of business in Lansing, MI. Owners is authorized to do business in the state of Tennessee. Owners may be served with process with their attorney, Gerald Tidwell, as previously agreed.

3. Judy Lance is a resident and individual of Copperhill, Tennessee. Ms. Lance owns a business located at 5454 Highway 64, Polk County, Tennessee

**FILED**

**JAN 16 2013**

("Business"). Such business is subject to a deed of trust and/or security interest belonging to intervening Plaintiff, PBET.

4. Owners issued an insurance policy to Ms. Lance for her Business in 2010. Such is attached to Judy Lance's original complaint and incorporated herein by reference.

5. Pursuant to various documents executed and duly recorded, PBET purchased a banking / financial entity formally known as Appalachian Community Bank ("Appalachian") from the FDIC.

6. In the original insurance policy between Owners and Ms. Lance, Appalachian was listed as the mortgage holder and loss payee.

7. PBET properly purchased Appalachian and stepped into its shoes in said insurance policy between Ms. Lance and Owners.

8. In April, 2011, the building owned by Ms. Lance and insured by owners was destroyed by fire.

9. Upon information and belief, Ms. Lance has filed a sworn proof of loss and such has not been paid by Owners.

10. PBET has filed a proof of loss with Owners. PBET has provided each and every document requested by Owners in order to process its claim. Owners has not paid the proof of loss filed by PBET.

11. Owners refusal to pay PBET's sworn claim within 60 days amounts to bad faith under Tennessee Code Annotated 56-7-105 et seq. Accordingly, among other things, Owners is liable to PBET for its loss, interest, attorneys fees, punitive damages, expenses, treble damages, and all other penalties allowed under Tennessee statutory and common law.


12. Among other things, Owners has breached its contract whereas PBET is a additional payee under its insurance policy with Ms. Lance.

**WHEREFORE**, Peoples Bank of East Tennessee prays:

- a. Proper process issue on the above named Defendants requiring them to appear and answer the Complaint set forth herein within the appropriate timeframe;
- b. Plaintiff, PBET, have a judgment against Defendants for Fraud, Outrageous Conduct, and / or Breach of Contract, in an amount to be proven at trial;
- c. Plaintiff, PBET, have a judgment against Defendants for, among other things, bad faith failure to pay an insurance claim, including interest, attorneys fees, punitive damages, expenses, treble damages, and all other penalties allowed under Tennessee statutory and common law.
- d. Plaintiff, PBET, have a judgment against Defendants for attorneys fees, expenses, pre and post judgment interest, punitive damages, treble damages, and all other penalties allowed under Tennessee statutory and common law for their actions described herein and to be shown at trial;
- e. For a jury of 12 persons to try all available issues in this matter; and
- f. For such other, further and general relief as this Court deems necessary and appropriate.

**Submitted:**

BLACKWELL LAW OFFICES, PLLC

By:   
Douglas N. Blackwell II, BPR 19298  
Amy D. Blackwell  
PO Box 1455  
Cleveland, TN 37364  
(423) 472-3000  
Attorney for Peoples Bank of East Tennessee

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing Complaint was served upon the following by placing a copy in the United States Mail with sufficient postage thereon to carry the same to its destination on this the 15<sup>th</sup> day of January, 2013.

LOGAN – THOMPSON PC  
Robert Norred, Jr.  
PO Box 191  
Cleveland, TN 37364  
Attorney for Ms. Lance

JAMES, GOINS, CARPENTER & TIDWELL  
W. Gerald Tidwell  
817 Broad Street, Suite 202  
Chattanooga, TN 37402  
Attorney for Defendant, Owners

By:   
Douglas N. Blackwell II